

SENATE, No. 349

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senators Bateman and A.R.Bucco

SYNOPSIS

Ends the estate tax and increases the gross income tax's retirement income exclusions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 4/19/2016)

1 AN ACT ending the estate tax and increasing the gross income tax
2 retirement income exclusions by amending R.S.54:38-1,
3 N.J.S.54A:6-10, and P.L.1977, c.273.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.54:38-1 is amended to read as follows:

9 54:38-1. a. The estate tax imposed pursuant to this section shall
10 not apply to the transfer of an estate of a resident decedent dying on
11 or after the July 1 first occurring on or after the date of enactment
12 of P.L. , c. (pending before the Legislature as this bill).

13 In addition to the inheritance, succession or legacy taxes
14 imposed by this State under authority of chapters 33 to 36 of this
15 title (R.S.54:33-1 et seq.), or hereafter imposed under authority of
16 any subsequent enactment, there is hereby imposed an estate or
17 transfer tax:

18 (1) Upon the transfer of the estate of every resident decedent
19 dying before January 1, 2002 which is subject to an estate tax
20 payable to the United States under the provisions of the federal
21 revenue act of one thousand nine hundred and twenty-six and the
22 amendments thereof and supplements thereto or any other federal
23 revenue act in effect as of the date of death of the decedent, the
24 amount of which tax shall be the sum by which the maximum credit
25 allowable against any federal estate tax payable to the United States
26 under any federal revenue act on account of taxes paid to any state
27 or territory of the United States or the District of Columbia, shall
28 exceed the aggregate amount of all estate, inheritance, succession or
29 legacy taxes actually paid to any state or territory of the United
30 States or the District of Columbia, including inheritance, succession
31 or legacy taxes actually paid this State, in respect to any property
32 owned by such decedent or subject to such taxes as a part of or in
33 connection with the estate; and

34 (2) (a) Upon the transfer of the estate of every resident decedent
35 dying after December 31, 2001 which would have been subject to
36 an estate tax payable to the United States under the provisions of
37 the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.),
38 in effect on December 31, 2001, the amount of which tax shall be,
39 at the election of the person or corporation liable for the payment of
40 the tax under this chapter, either

41 (i) the maximum credit that would have been allowable under
42 the provisions of that federal Internal Revenue Code in effect on
43 that date against the federal estate tax that would have been payable
44 under the provisions of that federal Internal Revenue Code in effect

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 on that date on account of taxes paid to any state or territory of the
2 United States or the District of Columbia,
3 or

4 (ii) determined pursuant to the simplified tax system as may be
5 prescribed by the Director of the Division of Taxation in the
6 Department of the Treasury to produce a liability similar to the
7 liability determined pursuant to clause (i) of this paragraph reduced
8 pursuant to paragraph (b) of this subsection.

9 (b) The amount of tax liability determined pursuant to
10 subparagraph (a) of this paragraph shall be reduced by the
11 aggregate amount of all estate, inheritance, succession or legacy
12 taxes actually paid to any state or territory of the United States or
13 the District of Columbia, including inheritance, succession or
14 legacy taxes actually paid this State, in respect to any property
15 owned by such decedent or subject to such taxes as a part of or in
16 connection with the estate; provided however, that the amount of
17 the reduction shall not exceed the proportion of the tax otherwise
18 due under this subsection that the amount of the estate's property
19 subject to tax by other jurisdictions bears to the entire estate taxable
20 under this chapter.

21 b. (1) In the case of the estate of a decedent dying before January
22 1, 2002 where no inheritance, succession or legacy tax is due this
23 State under the provisions of chapters 33 to 36 of this title or under
24 authority of any subsequent enactment imposing taxes of a similar
25 nature, but an estate tax is due the United States under the
26 provisions of any federal revenue act in effect as of the date of
27 death, wherein provision is made for a credit on account of taxes
28 paid the several states or territories of the United States, or the
29 District of Columbia, the tax imposed by this chapter shall be the
30 maximum amount of such credit less the aggregate amount of such
31 estate, inheritance, succession or legacy taxes actually paid to any
32 state or territory of the United States or the District of Columbia.

33 (2) In the case of the estate of a decedent dying after December
34 31, 2001 where no inheritance, succession or legacy tax is due this
35 State under the provisions of chapters 33 to 36 of this title or under
36 authority of any subsequent enactment imposing taxes of a similar
37 nature, the tax imposed by this chapter shall be determined pursuant
38 to paragraph (2) of subsection a. of this section.

39 c. For the purposes of this section, a "simplified tax system" to
40 produce a liability similar to the liability determined pursuant to
41 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of
42 this section is a tax system that is based upon the \$675,000 unified
43 estate and gift tax applicable exclusion amount in effect under the
44 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
45 s.1 et seq.), in effect on December 31, 2001, and results in general
46 in the determination of a similar amount of tax but which will
47 enable the person or corporation liable for the payment of the tax to
48 calculate an amount of tax notwithstanding the lack or paucity of

1 information for compliance due to such factors as the absence of an
2 estate valuation made for federal estate tax purposes, the absence of
3 a measure of the impact of gifts made during the lifetime of the
4 decedent in the absence of federal gift tax information, and any
5 other information compliance problems as the director determines
6 are the result of the phased repeal of the federal estate tax.

7 (cf: P.L.2002, c.31, s.1)

8
9 2. N.J.S.54A:6-10 is amended to read as follows:

10 54A:6-10. Pensions and annuities. Gross income shall not
11 include that part of any amount received as an annuity under an
12 annuity, endowment, or life insurance contract which bears the
13 same ratio to such amount as the investment in the contract as of the
14 annuity starting date bears to the expected return under the contract
15 as of such date. Where (1) part of the consideration for an annuity,
16 endowment, or life insurance contract is contributed by the
17 employer, and (2) during the three-year period beginning on the
18 date on which an amount is first received under the contract as an
19 annuity, the aggregate amount receivable by the employee under the
20 terms of the contract is equal to or greater than the consideration for
21 the contract contributed by the employee, then all amounts received
22 as an annuity under the contract shall be excluded from gross
23 income until there has been so excluded an amount equal to the
24 consideration for the contract contributed by the employee.

25 In addition to that part of any amount received as an annuity
26 which is excludable from gross income as herein provided, gross
27 income shall not include payments:

28 for taxable years beginning before January 1, 2000, of up to
29 \$10,000 for a married couple filing jointly, \$5,000 for a married
30 person filing separately, or \$7,500 for an individual filing as a
31 single taxpayer or an individual determining tax pursuant to
32 subsection a. of N.J.S.54A:2-1;

33 for the taxable year beginning on or after January 1, 2000, but
34 before January 1, 2001, of up to \$12,500 for a married couple filing
35 jointly, \$6,250 for a married person filing separately, or \$9,375 for
36 an individual filing as a single taxpayer or an individual
37 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

38 for the taxable year beginning on or after January 1, 2001, but
39 before January 1, 2002, of up to \$15,000 for a married couple filing
40 jointly, \$7,500 for a married person filing separately, or \$11,250 for
41 an individual filing as a single taxpayer or an individual
42 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

43 for the taxable year beginning on or after January 1, 2002, but
44 before January 1, 2003, of up to \$17,500 for a married couple filing
45 jointly, \$8,750 for a married person filing separately, or \$13,125 for
46 an individual filing as a single taxpayer or an individual
47 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

1 for taxable years beginning on or after January 1, 2003, but
2 before the January 1 first following at least six full months
3 beginning on or after the date of enactment of P.L. , c. (pending
4 before the Legislature as this bill), of up to \$20,000 for a married
5 couple filing jointly, \$10,000 for a married person filing separately,
6 or \$15,000 for an individual filing as a single taxpayer or an
7 individual determining tax pursuant to subsection a. of
8 N.J.S.54A:2-1, and

9 for taxable years beginning on or after the January 1 first
10 following at least six full months beginning on or after the date of
11 enactment of P.L. , c. (pending before the Legislature as this
12 bill), of up to \$30,000 for a married couple filing jointly, \$15,000
13 for a married person filing separately, or \$22,500 for an individual
14 filing as a single taxpayer or an individual determining tax pursuant
15 to subsection a. of N.J.S.54A:2-1,

16 which are received as an annuity, endowment or life insurance
17 contract, or payments of any such amounts which are received as
18 pension, disability, or retirement benefits, under any public or
19 private plan, whether the consideration therefor is contributed by
20 the employee or employer or both, by any person who is 62 years of
21 age or older or who, by virtue of disability, is or would be eligible
22 to receive payments under the federal Social Security Act, but for
23 taxable years beginning on or after January 1, 2005, only if the
24 taxpayer has gross income for the taxable year of not more than
25 \$100,000.

26 Gross income shall not include any amount received under any
27 public or private plan by reason of a permanent and total disability.

28 Gross income shall not include distributions from an employees'
29 trust described in section 401(a) of the Internal Revenue Code of
30 1986, as amended (hereinafter referred to as "the Code"), which is
31 exempt from tax under section 501(a) of the Code if the
32 distribution, except the portion representing the employees'
33 contributions, is rolled over in accordance with section 402(a)(5) or
34 section 403(a)(4) of the Code. The distribution shall be paid in one
35 or more installments which constitute a lump-sum distribution
36 within the meaning of section 402(e)(4)(A) (determined without
37 reference to subsection (e)(4)(B)), or be on account of a termination
38 of a plan of which the trust is a part or, in the case of a profit-
39 sharing or stock bonus plan, a complete discontinuance of
40 contributions under such plan.

41 (cf: P.L.2005, c.130, s.1)

42
43 3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to
44 read as follows:

45 3. Other retirement income. a. Gross income shall not include
46 income:

47 for taxable years beginning before January 1, 2000, of up to
48 \$10,000 for a married couple filing jointly, \$5,000 for a married

1 person filing separately, or \$7,500 for an individual filing as a
2 single taxpayer or an individual determining tax pursuant to
3 subsection a. of N.J.S.54A:2-1;

4 for the taxable year beginning on or after January 1, 2000, but
5 before January 1, 2001, of up to \$12,500 for a married couple filing
6 jointly, \$6,250 for a married person filing separately, or \$9,375 for
7 an individual filing as a single taxpayer or an individual
8 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

9 for the taxable year beginning on or after January 1, 2001, but
10 before January 1, 2002, of up to \$15,000 for a married couple filing
11 jointly, \$7,500 for a married person filing separately, or \$11,250 for
12 an individual filing as a single taxpayer or an individual
13 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

14 for the taxable year beginning on or after January 1, 2002, but
15 before January 1, 2003, of up to \$17,500 for a married couple filing
16 jointly, \$8,750 for a married person filing separately, or \$13,125 for
17 an individual filing as a single taxpayer or an individual
18 determining tax pursuant to subsection a. of N.J.S.54A:2-1;

19 for taxable years beginning on or after January 1, 2003, but
20 before the January 1 first following at least six full months
21 beginning on or after the date of enactment of P.L. , c. (pending
22 before the Legislature as this bill), gross income shall not include
23 income of up to \$20,000 for a married couple filing jointly, \$10,000
24 for a married person filing separately, or \$15,000 for an individual
25 filing as a single taxpayer or an individual determining tax pursuant
26 to subsection a. of N.J.S.54A:2-1, and

27 for taxable years beginning on or after the January 1 first
28 following at least six full months beginning on or after the date of
29 enactment of P.L. , c. (pending before the Legislature as this
30 bill), gross income shall not include income of up to \$30,000 for a
31 married couple filing jointly, \$15,000 for a married person filing
32 separately, or \$22,500 for an individual filing as a single taxpayer
33 or an individual determining tax pursuant to subsection a. of
34 N.J.S.54A:2-1,

35 when received in any tax year by a person aged 62 years or older
36 who received no income in excess of \$3,000 from one or more of
37 the sources enumerated in subsections a., b., k. and p. of
38 N.J.S.54A:5-1, but for taxable years beginning on or after January
39 1, 2005, only if the taxpayer has gross income for the taxable year
40 of not more than \$100,000, provided, however, that the total
41 exclusion under this subsection and that allowable under
42 N.J.S.54A:6-10 shall not exceed the amounts of the exclusions set
43 forth in this subsection.

44 b. In addition to the exclusion provided under N.J.S.54A:6-10
45 and subsection a. of this section, gross income shall not include
46 income of up to \$6,000 for a married couple filing jointly or an
47 individual determining tax pursuant to subsection a. of N.J.S.54A:2-
48 1, or \$3,000 for a single person or a married person filing

1 separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
2 3, but who would be eligible in any year to receive payments under
3 either section if he or she were covered thereby.
4 (cf: P.L.2005, c.130, s.2)

5
6 4. This act shall take effect immediately.

7
8
9 STATEMENT

10
11 This bill ends the estate tax and increases the gross income tax's
12 retirement income exclusions. The purpose of the bill is to make
13 New Jersey a more tax-friendly retirement jurisdiction.

14 At the technical level, the bill schedules the estate tax to
15 conclude with the beginning of the first new State fiscal year
16 coinciding or following the date of enactment.

17 The bill increases the gross income tax's retirement income
18 exclusions as follows:

19

Taxpayer Status	Present Exclusion	Proposed Exclusion
Joint	\$20,000	\$30,000
Single	\$15,000	\$22,500
Married but Separate	\$10,000	\$15,000

20
21 The increases in retirement income exclusions are scheduled to
22 apply to taxable years beginning on or after the January 1 within the
23 first new State fiscal year coinciding or following the date of
24 enactment.